

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PENTALPHA ENTERPRISES, LTD.,
AND GLOBAL-TECH ADVANCED
INNOVATIONS INC.,

Plaintiffs,

v.

COOPER & DUNHAM LLP,
WENDY E. MILLER, NORMAN
H. ZIVIN AND SEB S.A.,

Defendants.

Civil Action No.
09 Civ. 4304 (SCR)

**DEFENDANTS' NOTICE OF MOTION AND MOTION
TO DISMISS THE COMPLAINT,
PURSUANT TO RULE 12(b)(6), FED.R.CIV.P.,
OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

To: Donald J. Cayea, Esq.
JONES HIRSCH CONNORS & BULL P.C.
One Battery Park Plaza
New York, New York 10004

Attorneys for Plaintiffs

PLEASE TAKE NOTICE that at a date and time set by the Court, in Courtroom 621 of the United States District Court for the Southern District of New York, United States Courthouse, 300 Quarropas Street, Room 633, White Plains, New York 10601-4150, Defendants Cooper & Dunham LLP, Wendy E. Miller, Norman H. Zivin and SEB, S.A. will move this Honorable Court for an order dismissing Plaintiffs' Complaint, pursuant to Rule 12(b)(6), Fed. R. Civ. P., or in the alternative, for summary judgment, pursuant to Rule 12(d), Fed. R. Civ. P.

This motion is accompanied by an opening brief in support of this motion filed contemporaneously herewith. A proposed Order is attached hereto as Exhibit 1.

Respectfully submitted,

Dated: June 29, 2009

/s/ Robert T. Maldonado
William E. Pelton (WP 1850)
Robert T. Maldonado (RM 7873)
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Counsel for Defendants

EXHIBIT 1

UNITED STATES DISTRICT COURT
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**ORDER GRANTING DEFENDANTS' MOTION
TO DISMISS THE COMPLAINT,
PURSUANT TO RULE 12(b)(6), FED.R.CIV.P. [PROPOSED]**

This matter having come on for a hearing pursuant to Defendants’ Motion To Dismiss the Complaint, pursuant to Rule 12(b)(6), Fed. R. Civ. P., and the Court having considered the submissions of the parties, and having heard oral argument,

IT IS HEREBY ORDERED, that the Complaint is dismissed with prejudice;

IT IS FURTHER ORDERED that Defendants are awarded their costs and reasonable attorneys' fees in connection with the defense of this action, in an amount to be determined in a subsequent proceeding, as a result of the exceptional nature of this action; and

IT IS FURTHER ORDERED that Plaintiffs and their attorneys are sanctioned for filing this action, and are jointly and severally liable to pay \$5,000 to the Court as a sanction, pursuant to 28 U.S.C. § 1927.

IT IS SO ORDERED, this ____ day of _____, 2009.

Hon. Stephen C. Robinson, U.S.D.J.

CERTIFICATE OF SERVICE

I hereby declare that on June 29, 2009, true and correct copies of the foregoing **DEFENDANTS' NOTICE OF MOTION AND MOTION TO DISMISS THE COMPLAINT, PURSUANT TO RULE 12(b)(6), FED.R.CIV.P., OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT; DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS THE COMPLAINT, PURSUANT TO RULE 12(b)(6), FED.R.CIV.P., OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT; and ORDER GRANTING MOTION TO DISMISS [PROPOSED]** were served by Federal Express on:

Donald J. Cayea, Esq.
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New York, New York 10004
(212) 527-100

Attorneys for Plaintiffs

/Robert T. Maldonado/